



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Eagle Aviation, Inc.

File: B-257737

Date: July 13, 1994

DECISION

Eagle Aviation, Inc. protests the rejection of its bid as nonresponsive by the Defense Logistics Agency under solicitation No. DLA600-94-B-0008, a partial small business set-aside.

We dismiss the protest.

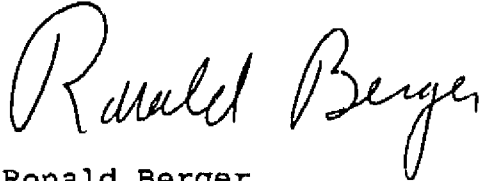
The solicitation was issued as a partial small business set-aside on two line items while the remaining items were unrestricted. The solicitation advised bidders that the "contractors for the set-aside portion will be selected from among the small business concerns that submitted responsive offers on the non-set-aside portion." Eagle states it was only interested in the set-aside portion of the solicitation and, relying on advice from a contracting activity representative, submitted a bid only for that portion. Eagle's bid was rejected as nonresponsive on May 18, 1994. Eagle filed the instant protest on June 28.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Our Regulations require that a protest such as this must be filed within 10 working days of when the protester learns its basis of protest. 4 C.F.R. § 21.2(a)(2). While the protester admits that its protest is not timely filed under our Regulations, Eagle argues that we should nonetheless consider its arguments under the significant issue exception to the timeliness rules.

Exceptions to our timeliness rules are strictly construed and rarely used in order to prevent our timeliness rules from becoming meaningless. Air Inc.--Request for Recon., B-238220.2, Jan. 29, 1990, 90-1 CPD ¶ 129. We limit the use of the "significant issue" exception to protests that raise issues of widespread procurement interest and which have not been previously considered on the merits. See 4 C.F.R. § 21.2(c). Here, Eagle argues that this matter is significant because of the agency's advice that it could

submit a bid for the set-aside portion only; however, it is well-settled that a bidder may not rely on such advice when it is inconsistent with the solicitation. See Recreonics Corp., B-246339, Mar. 2, 1992, 92-1 CPD ¶ 249. The matter does not involve a significant issue.

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger".

Ronald Berger
Associate General Counsel